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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,815	06/04/2001	Egidio Lavorgna JR.	60709-00017	4578

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01/28/2008

EXAMINER
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NGUYEN, TAN D

ART UNIT	PAPER NUMBER
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3629

MAIL DATE	DELIVERY MODE
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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/873,815	<b>Applicant(s)</b> LAVORGNA ET AL.	
	<b>Examiner</b> Tan Dean D. Nguyen	<b>Art Unit</b> 3629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-6,8-13,39-45,47-57 and 59-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-6,8-13,39-45,47-57 and 59-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/31/07 has been entered.

### ***Response to Amendment***

The amendment filed 3/29/07 has been entered. Claims 2-6, 8-13, 39-45, 47-57 and 59-64 are pending and rejected as followed.

### ***Claim Rejections - 35 USC § 112***

1. Claims 39, 2-6, 8-13 (method), 40-45, 47-51 (system), 52-57, 59-63 (apparatus), and 64 (product) are rejected under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As of 10/31/07, independent method claim 39 is as followed:

39. (currently amended) A method for managing business metrics for a business entity using a server system coupled to a database and at least one client system, the business entity having a plurality of business units, said method comprising the steps of:

(a) storing in the database a plurality of web pages including a create template web page;

(b) prompting a first user to create a customized template for receiving business metrics by displaying at the at least one client system the create template web page, the create template web page prompts the first user to enter data including at least one of a template name, a frequency, a first due date, a contact name, and a template description, the create template web page prompts the first user to define data fields to be displayed on the customized template and a type of business metrics to be entered into the customized template, the customized template is stored within the database for retrieval by a second user of the at least one client system for inputting business metrics;

(c) prompting the first user to link a metric target with a first data field displayed on the customized template, wherein, the metric target is at least one of a level and a weight;

(d) creating at least one hierarchy of entities within the business entity including storing within the database a relationship between each of the business units included within the business entity;

(e) linking the customized template to the at least one hierarchy of entities for restricting access to the customized template to only selected business units included within the business entity;

(f) linking the data fields included within the customized template to the at least one hierarchy of entities for combining data for a plurality of selected business units included within the business entity;

(g) displaying the customized template at the at least one client system to prompt the second user to enter data about business metttles relating a business unit linked to the customized template, the second user enters the data about business metttles into the data fields displayed on the customized template including the first data field having the metric target assigned thereto;

(h) storing the data about the business metttles in the database;

(i) analyzing the data about the business metrics stored in the database using the server system for generating reports including the data about the business metttles; and

(j) generating, using the server, a plurality of reports including a first report showing the data about the business metrics for each business unit linked to the customized template including each business unit having entered data and the hierarchical relationship between each business unit, and a second report containing desired combinations of the data about the business metrics entered into linked data fields for each business unit linked to the customized template based on the hierarchy of entities.

Note: for convenience, letters (a)-(j) are added to the beginning of each step by the examiner.

(1) In independent method claim 39, it's not clear whether the "customized template" of step (g) is of (derived from) step (b) or (e) or (f)?

(2) In independent method claim 39, it's not clear whether the "hierarchy of entities" in the last step refer to all entities of first user and second user or 2<sup>nd</sup> user alone?

customized template" of step (g) is of (derived from) step (b) or (e) or (f)?

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claims 39, 2-6, 8-13 (method), 40-45, 47-51 (system), 52-57, 59-63 (apparatus), and 64 (product) are rejected under 35 U.S.C. 103(a) as being unpatentable over (1) PLANALP ET AL.**

**As for independent method claim 39, PLANALP ET AL** fairly teaches a method for managing business metrics for a business entity using a server system coupled to a database and at least one client system, the business entity having a plurality of business units, said method comprising the steps of:

(a) storing in the database a plurality of web pages including a create template web page {see Fig. 3};

(b) prompting a first user to create a customized template for receiving business metrics by displaying at the at least one client system the create template web page, the create template web page prompts the first user to enter data including at least one of a template name, a frequency, a first due date, a contact name, and a template description, the create template web page prompts the first user to define data fields to be displayed on the customized template and a type of business metrics to be entered into the customized template, the customized template is stored within the database for retrieval by a second user of the at least one client system for inputting business metrics; {see Figs. 1, 10, especially 17, cols. 2-3}

c) prompting the first user to link a metric target with a first data field displayed on the customized template, wherein, the metric target is at least one of a business target measuring parameter, "LSL", or "LTGT", or "Target", or "USGT", or "USL" {see Fig. 17, elements 850, 852, col. 15, lines 10-45};

(d) creating at least one hierarchy of entities within the business entity including storing within the database a relationship between each of the business units included within the business entity; {see 4A, or 4B}

(e) linking the customized template to the at least one hierarchy of entities for restricting access to the customized template to only selected business units included within the business entity; {see Figs. 8, 10, col. 15}

(f) linking the data fields included within the customized template to the at least one hierarchy of entities for combining data for a plurality of selected business units included within the business entity; {see Figs. 11, 17, col. 15}

(g) displaying the customized template at the at least one client system to prompt the second user to enter data about business metrics relating a business unit linked to the customized template, the second user enters the data about business metrics into the data fields displayed on the customized template including the first data field having the metric target assigned thereto; {see Figs. 11, 17, 18}

(h) storing the data about the business metrics in the database; {see Figs. 3}

(i) analyzing the data about the business metrics stored in the database using the server system for generating reports including the data about the business metrics; and {see Figs. 15, 17, 18}



(j) generating, using the server, a plurality of reports including a first report showing the data about the business metrics for each business unit linked to the customized template including each business unit having entered data and the hierarchical relationship between each business unit, and a second report containing desired combinations of the data about the business metrics entered into linked data fields for each business unit linked to the customized template based on the hierarchy of entities. {see Figs. 15, 17}.

**PLANALP ET AL** fairly teaches claimed 39 except for the name or title or "unit measure" of the metric target in (c) of "a level" or "weight" or relative term. However, in view of the general teachings of target, lower and upper limits with respect to the target which indicates "level" or "weight" or "relative term" with respect to the "target", the use of other similar relative measuring terms such as "level" or "weight" would have been obvious to a skilled artisan as mere using other similar business metric measuring terms to achieve similar monitoring results, absent evidence of unexpected results.

**As for dep. claims 2, 4-6, 8-12** (part of 39 above), which deal with parameters for creating a customized template using a 1<sup>st</sup> user or limitations with respect to steps (a)-(f), these do not further limit the claim scope of managing business metrics for a business entity using a server system coupled to a database and at least one client system using a 2<sup>nd</sup> user, and therefore, they have no patentable weight. Only the captured data (or entering data) by the 2<sup>nd</sup> user as shown by steps (g)-(j) that are entered on the customized template will receive patentable weight since they meet the scope of the claim which require data to be captured/entered and analyzed.

Alternatively, as for **dep. claim 2**, which deals with well known template creating/customizing parameters, i.e. having a calculation formula, this is non-essential to the scope of the claimed invention and is taught in PLANALP ET AL Figs. 10-17.

Alternatively, as for **dep. claim 3** (part of 39 above), which deal with well known data analysis parameters, i.e. performing at least 1 mathematical computation and generating a trend analysis, this is taught in Fig. 15, element 812, Fig. 19

Alternatively, as for **dep. claim 4** (part of 39 above), which deal with well known template creating/customizing parameters, i.e. assign a definition to each data field, this is non-essential to the scope of the claimed invention and is taught in Figs. 10-17.

Alternatively, as for **dep. claim 5** (part of 39 above), which deal with well known template creating/customizing parameters, i.e. creating a data field for validating a business metrics, this is non-essential to the scope of the claimed invention and is taught in Figs. 10-17.

Alternatively, as for **dep. claim 6** (part of 39 above), which deal with well known template creating/customizing parameters, i.e. a drop-down box or list for entering data, this is non-essential to the scope of the claimed invention and is taught in Figs. 10-17.

Alternatively, as for **dep. claims 8-9** (part of 39 above), which deal with well known template creating/customizing parameters, i.e. linking of an data to other data or field or other elements, these are non-essential to the scope of the claimed invention and are taught in Figs. 10-17, cols. 2-3.

Alternatively, as for **dep. claims 10-13** (part of 39 above), which deal with well known template creating/customizing parameters, i.e. features such as editing,

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changing , modifying, etc., these are non-essential to the scope of the claimed invention and are taught in Figs. 10-17, cols. 7-8, 15, Figs. 30-32.

**As for Independent system claim 40 and independent apparatus claim 52,** which are basically the system to carry out the independent method of claim 39 as shown above, they are rejected over the system of PLANALP ET AL , see Fig. 3, to carry out the rejections of the method claim 39 as indicated above. Alternatively, the setting up a computer system to carry out the respective computer implemented method would have been obvious to a skilled artisan.

As for dep. claim 41-45, 47-51, 53-57, 59-63, which have similar limitation as in dep. claims 2, 4-6, 8-12 above, they are rejected for the same reasons set forth in the rejections of dep. claims 2, 4-6, 8-12 above.

**As for Independent computer program product claim 64,** which is basically the computer program product to carry out the independent method of claim 39 as shown above, they are rejected over the computer program product of PLANALP ET AL, Fig. 3, to carry out the rejections of the method claim 39 as indicated above. Alternatively, the setting up a computer program product to carry out the respective computer implemented method would have been obvious to a skilled artisan.

No claims are allowed.

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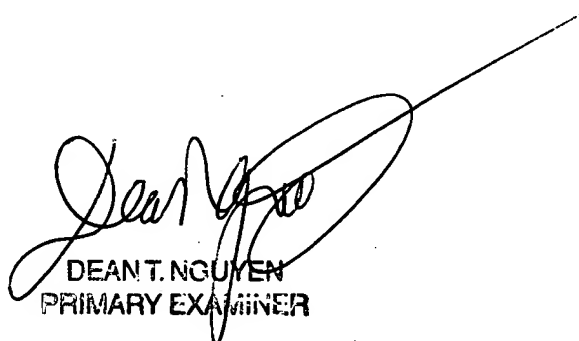
6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail [CustomerService3600@uspto.gov](mailto:CustomerService3600@uspto.gov).

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053 or (571) 272-6806 (by April 15, 2005). My work schedule is normally Monday through Friday from 7:00 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 872-9306. My personal Fax is (703) 872-9674. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn  
January 22, 2008



DEAN T. NGUYEN  
PRIMARY EXAMINER